

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

: No. 2:12-md-02323-AB
: MDL No. 2323
:
: Hon. Anita B. Brody, U.S.D.J.
:

NOTICE OF APPEAL

Notice is hereby given that Thrivest Specialty Funding, LLC, a non-party to the above-captioned class action, appeals to the United States Court of Appeals for the Third Circuit from the Order of June 28, 2018 (the “Order,” Dkt. No. 10124) issued by this Court and attached hereto as Exhibit A.

The Order denies as moot Class Counsel’s Motion for Order Directing the Claims Administrator to Withhold Any Portions of Class Member Monetary Awards Purportedly Owed to Certain Third-Party Lenders (Dkt. No. 8470) (“Motion to Withhold”) because “[t]he relevant issues involving Third-Party Funders have been addressed in the Court’s December 8, 2017 Explanation and Order ([Dkt.] No. 9517) and February 20, 2018 Order ([Dkt.] No. 9749).”¹

¹ Thrivest did not participate in the briefing leading up to the Court’s December 8, 2017 Explanation and Order, which on its face responded only to the Referral Order (Dkt. No. 8380) from Judge Preska in CFPB v. RD Legal Funding LLC, et al., Case No. 17-cv-890 (S.D.N.Y.). RD Legal appealed that order and the February 20, 2018 Order implementing it, and that appeal is presently pending before the Third Circuit at Nos. 18-1040 and 18-1482.

The Court granted Thrivest “objector status” in response to Class Counsel’s Motion to Withhold, which remained pending on the Court’s docket even after the Court’s December 8, 2017 Explanation and Order and February 20, 2018 Order until June 28, 2018 when the Court issued the Order. Thrivest’s brief raised objections under Rule 23(d), the Federal Arbitration Act, case law enforcing class action/multi-district litigation waivers, and Article III’s case or controversy requirement, among others. By denying Class Counsel’s Motion to Withhold as Moot, the Court has in essence adopted the December 8, 2017 Explanation and Order and February 20, 2018 Order as its ruling on the Motion to Withhold, although neither of those prior orders references the Motion to Withhold or addresses any of Thrivest’s objections.

Respectfully submitted,



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Attorney for Thrivest Specialty Funding, LLC

Dated: July 16, 2018

Thrivest has an appeal pending at No. 18-2184 from the Court's Explanation and Order of May 22, 2018 (Dkt. No. 10011), which permanently enjoined Thrivest from seeking arbitration regarding the validity of its funding agreement with Class Member, William E. White. For the sake of judicial economy and in view of the relatedness of the issues presented by this appeal, Thrivest respectfully requests that this appeal be consolidated with No. 18-2184 and that this appeal follow the same briefing schedule, which begins with Thrivest's brief due on August 13, 2018. Thrivest is opposed to any postponement of the briefing schedule in No. 2184 or any delay in scheduling oral argument in RD Legal's appeals.

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CERTIFICATE OF SERVICE

I, Peter C. Buckley, certify that a true and correct copy of the foregoing Notice of Appeal was filed on the Court's ECF System on all counsel of record in the above-captioned matter.

/s/ Peter C. Buckley
Peter C. Buckley, Esquire

Dated: July 16, 2018